

HOUSE BILL No. 1223

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-204.5; IC 32-21-5-7; IC 35-48-2-12; IC 35-48-4-14.5.

Synopsis: Methamphetamine. Requires the real estate disclosure form to disclose whether a property was used to manufacture methamphetamine or if the offense of dumping controlled substance waste was committed on the property. Adds certain chemical reagents to the list of chemical reagents and precursors used in the manufacture of methamphetamine. Makes ephedrine and pseudoephedrine schedule V controlled substances.

Effective: July 1, 2005.

Koch

January 6, 2005, read first time and referred to Committee on Education.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1223

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-204.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 204.5. "Liquid ephedrine or pseudoephedrine" means a drug that:**

- (1) contains ephedrine or pseudoephedrine;**
- (2) is in liquid, liquid capsule, or gel capsule form; and**
- (3) has an active ingredient in addition to ephedrine or pseudoephedrine.**

SECTION 2. IC 32-21-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

- (1) Disclosure by the owner of the known condition of the following:
 - (A) The foundation.
 - (B) The mechanical systems.
 - (C) The roof.



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(D) The structure.

(E) The water and sewer systems.

(F) Additions that may require improvements to the sewage disposal system.

(G) Other areas that the Indiana real estate commission determines are appropriate.

(2) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

(3) A notice to the prospective buyer that contains substantially the following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner."

(4) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

(5) A disclosure by the owner if:

(A) methamphetamine was manufactured on the property;
or

(B) the offense of dumping controlled substance waste (IC 35-48-4-4.1) was committed on the property;

even if the person who manufactured methamphetamine or committed the offense of dumping controlled substance waste was never charged with or convicted of the offense.

SECTION 3. IC 35-48-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The controlled substances listed in this section are included in schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following quantities, which shall include one **(1)** or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or

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preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligrams of difenoxin (9168), and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Buprenorphine (9064).

(d) Except as provided in subsection (e), a material, compound, mixture, or preparation that contains a quantity of the following substances, pure or adulterated:

(1) Ephedrine.

(2) Pseudoephedrine.

(e) Liquid ephedrine or pseudoephedrine (as defined in IC 16-18-2-204.5) is not included in schedule V.

SECTION 4. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

(6) Organic solvents.

(7) Hydrochloric acid.

(8) Lithium metal.

(9) Sodium metal.

(10) Ether.

(11) Sulfuric acid.

(12) Red phosphorous.

(13) Iodine.

(14) Sodium hydroxide (lye).

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- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.
- (19) Benzyl cyanide.**
- (20) Phenylacetic acid and its esters or salts.**
- (21) Piperidine and its salts.**
- (22) Methylamine and its salts.**
- (23) Isosafrole.**
- (24) Safrole.**
- (25) Piperonal.**
- (26) Hydriodic acid.**
- (27) Benzaldehyde.**
- (28) Nitroethane.**

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances~~ **pure or adulterated**, exceeding ten (10) grams commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances~~ **pure or adulterated**, exceeding ten (10) grams; or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of any of these substances~~ **pure or adulterated**, exceeding ten (10) grams in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture

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methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(d) Subsection (b) does not apply to: ~~or~~

(1) ~~a~~ licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; ~~or~~

(2) ~~a~~ person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

(A) the location in which the substance is stored;

(B) the possession of the substance in a variety of:

(i) strengths;

(ii) brands; or

(iii) types; or

(C) the possession of the substance:

(i) with different expiration dates; or

(ii) in forms used for different purposes; **or**

(3) liquid ephedrine or pseudoephedrine (as defined in IC 16-18-2-204.5).

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

(1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;

(2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;

(3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

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1 (1) a firearm while possessing two (2) or more chemical reagents
2 or precursors with intent to manufacture methamphetamine, a
3 schedule II controlled substance under IC 35-48-2-6; or

4 (2) two (2) or more chemical reagents or precursors with intent to
5 manufacture methamphetamine, a schedule II controlled
6 substance under IC 35-48-2-6 in, on, or within one thousand
7 (1,000) feet of:

8 (A) school property;

9 (B) a public park;

10 (C) a family housing complex; or

11 (D) a youth program center.

12 (g) A person who sells, transfers, distributes, or furnishes a chemical
13 reagent or precursor to another person with knowledge or the intent that
14 the recipient will use the chemical reagent or precursors to manufacture
15 methamphetamine, methcathinone, amphetamine, or phentermine
16 commits unlawful sale of a precursor, a Class D felony.

17 SECTION 5. [EFFECTIVE JULY 1, 2005] IC 35-48-4-14.5, as
18 amended by this act, applies only to offenses committed after June
19 30, 2005.

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